



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,215	01/16/2001	Thomas W. Krause		1823

35197 7590 08/03/2004

PHILIP R KRAUSE
9437 SEVEN LOCKS RD
BETHESDA, MD 20817

EXAMINER

EHICHIOYA, FRED I

ART UNIT PAPER NUMBER

2172

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

BEST AVAILABLE COPY

Advisory Action

Application No.

09/759,215

Applicant(s)

KRAUSE, THOMAS W.

Examiner

Fred I. Ehichioya

Art Unit

2172

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 4, 8 - 11, 13, 17 and 20.Claim(s) rejected: 1, 2, 3, 5, 6, 7, 12, 14 - 16, 18, 19, 21, and 22.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

BEST AVAILABLE COPY


SHAHID ALAM
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Examiner disagrees with all the applicant's arguments. On page 3, applicant states " Knotts and Reed do not contain any justification or motivation to support their combination to arrive at the present invention". In response to this argument, and according to MPEP 2143.02, The prior art can be modified or combine to reject claims as prima facie obvious as long as there is a reasonable expectation of success. In re Merck & Co., Inc., 800F.2d 1091,231 USPQ 375 and MPEP further states that "It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by the applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972. Though the applicant states that it not correct to rely upon the sequence of steps by Knotts and Reed, it is obvious that this sequence of steps clearly suggest applicant claimed invention. On Page 6, applicant argues that "knotts and Reed are individually complete and solve different problems from present invention", According MPEP 2143.02, the combination of Knotts and Reed clearly show a reasonable amount of success by calculating and displaying age event information as claimed by the applicant. Receipt of informal communication filed July 06, 2004 by the applicant is hereby acknowledged.

BEST AVAILABLE COPY